

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1831**

State of Minnesota,
Respondent,

vs.

Malachi Daniel Smith,
Appellant.

**Filed July 10, 2023
Affirmed
Ross, Judge**

Faribault County District Court
File No. 22-CR-22-160

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Cameron Davis, Faribault County Attorney, Blue Earth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Greg Scanlan, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Bjorkman, Judge; and Reyes,
Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

According to a criminal complaint, Malachi Smith led a sheriff's deputy on a high-speed chase in and around the City of Blue Earth before colliding with the pursuing squad car, leaping from his moving car, fleeing on foot, attempting to steal a utility vehicle,

violently resisting arrest, being found in possession of methamphetamine, and refusing to comply with a warrant authorizing deputies to procure a sample of his blood or urine for chemical testing. Smith pleaded guilty to refusing to submit to a chemical test in exchange for the state agreeing to the dismissal of eight other charges. The district court ordered Smith to pay about \$6,300 in restitution for damage to the squad car. Smith appeals the restitution order, contending that his crime of conviction is not related to the conduct that damaged the squad car. Because Smith did not make this legal argument in the district court, the challenge is beyond the scope of our review on appeal, and we affirm.

FACTS

Sheriff's Deputy Briar Bonin saw a car driven by Malachi Smith traveling at high speeds entering the City of Blue Earth on an early morning in March 2022. Smith turned off the car's lights after the deputy began following him, and the deputy activated his squad car's emergency lights and siren to initiate a traffic stop. Smith drove rapidly and erratically with Deputy Bonin pursuing throughout Blue Earth. Smith ignored traffic-control devices and reached speeds exceeding 100 miles per hour.

Smith turned his lights on and pulled over to the side of the road outside of town. But he then quickly made a U-turn and headed back toward Blue Earth. Deputy Bonin positioned his squad car to block Smith's car from reentering the city. Smith collided with the squad car and continued his elusive driving. Deputies eventually caught Smith, who forcefully resisted arrest. The deputies searched Smith's person and found a substance that tested positive as methamphetamine. They sought and received a warrant to obtain a blood

or urine sample from Smith for chemical testing. Smith nevertheless refused to provide a sample.

The state charged Smith with nine crimes: first-degree burglary involving an assault, fleeing an officer while causing bodily injury, obstructing the legal process by interfering with a peace officer, fifth-degree possession of a controlled substance, attempted theft, first-degree damage to a public safety motor vehicle, fourth-degree assault on a peace officer, refusal to submit to chemical testing, and driving with a cancelled license. Smith agreed to plead guilty for refusing to submit to a chemical test in exchange for dismissal of the remaining offenses along with several other pending criminal matters. Smith acknowledged that he could be sentenced to an executed term of imprisonment of 42 months and to pay restitution related to any uninsured medical costs accrued by the peace officers involved in the incident. Smith's counsel agreed that he would not challenge an award of restitution based on the crime of conviction. At the plea hearing, Smith admitted that he refused to submit to a chemical test as alleged in the criminal complaint.

The district court accepted Smith's guilty plea, sentenced him to 42 months in prison, and ordered him to pay appropriate restitution at an amount to be determined later. The Minnesota Counties Intergovernmental Trust had filed an affidavit earlier that day seeking restitution to recover \$6,312 for the damage to the squad car. Smith opposed the restitution request, arguing that the deputy rather than Smith was responsible for the collision and that Smith lacked the resources to pay restitution. During the consequent restitution hearing, Smith argued through counsel that "no restitution should be paid at all" because the deputy's recklessness, not Smith's conduct, caused the damage, and because

Smith could not afford to pay. The district court rejected the arguments and ordered Smith to pay restitution in the amount requested. Smith appeals.

DECISION

Smith challenges the restitution order. We review orders awarding restitution for an abuse of discretion, “[b]ut determining whether an item meets the statutory requirements for restitution is a question of law that is fully reviewable by the appellate court.” *State v. Ramsay*, 789 N.W.2d 513, 517 (Minn. App. 2010). Smith contends specifically that the restitution order was not authorized because his offense of conviction—refusing to submit to a chemical test—is not directly related to the conduct that damaged the squad car. It is true that the district court may order restitution for “out-of-pocket losses resulting from” a crime for which a defendant is convicted. Minn. Stat. § 611A.04, subd. 1(a), (c) (2022). It is also true that the loss must be “directly caused by, or follow naturally as a consequence of, the defendant’s crime.” *State v. Boettcher*, 931 N.W.2d 376, 381 (Minn. 2019). But for the reasons that follow, we will not reach the merits of Smith’s argument that the damage precipitating the restitution order was not directly caused by or does not follow naturally as a consequence of his crime of conviction.

We resolve this dispute without reaching the merits of Smith’s argument on appeal because it is an argument that he did not raise in the district court. In the district court, Smith raised a factual challenge to the district court’s restitution basis—contending that someone other than he caused the damage underlying the restitution claim, and on appeal he raises a legal argument about the district court’s restitution authority—contending that damage that did not arise from his crime of conviction cannot support the restitution claim.

A defendant may challenge the district court’s legal authority to order restitution. *See State v. Gaiovnik*, 794 N.W.2d 643, 647 (Minn. 2011). But he must make that argument to the district court before he can raise it on appeal. *See id.* at 648 (acknowledging that legal challenges to sentences typically must be made to the district court); *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (declaring that appellant’s “failure to raise the issue before the district court at trial precludes its litigation on appeal”). Smith did not argue to the district court that it lacked authority to order restitution because the damage did not result from his crime of refusing to submit to chemical testing. He instead argued only that his actions were not those that caused the damage and that he could not afford to pay. Smith did not make the argument he raises on appeal to the district court, and we therefore decline to consider its merits.

Affirmed.